

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

ROBERT CHARLES BROOKE,)	
)	
Plaintiff,)	
)	
v.)	No. 12-04187-CV-C-DGK-SSA
)	
MICHAEL J. ASTRUE,)	
Commissioner of Social Security,)	
)	
Defendant.)	

ORDER DISMISSING CASE

Pending before the Court is Defendant Commissioner of Social Security Michael J. Astrue's motion to dismiss (Doc. 7) and Plaintiff Robert Brooke's reply (Doc. 11). For the following reasons, Defendant's motion is granted.

Pursuant to 42 U.S.C. § 405(g):

Any individual, after any final decision of the Commissioner of Social Security made after a hearing to which he was a party, irrespective of the amount in controversy, may obtain a review of such decision by a civil action commenced within sixty days after the mailing to him of notice of such decision or within such further time as the Commissioner of Social Security may allow.

On September 20, 2010, an Administrative Law Judge ("ALJ") issued a decision denying Plaintiff's claim for benefits under Title XVI of the Social Security Act, 42 U.S.C. §§ 1381 *et seq.* Plaintiff requested review of the ALJ's decision by the Appeals Council, and on February 17, 2012, the Appeals Council denied Plaintiff's request for review, leaving the Appeals Council's decision as the final determination of the Commissioner subject to review. 42 U.S.C. § 405(g). On that same date, the Appeals Council sent Plaintiff a letter

advising him of his right to commence a civil action by filing a complaint in the United States District Court within sixty days from the date of receipt of the letter.

Plaintiff filed the instant action on July 16, 2012. Because Plaintiff did not file this action within the sixty days allotted by statute and because there are no special circumstances that justify equitable tolling, the Court dismisses this action.

Date: March 18, 2013

/s/ Greg Kay
GREG KAYS, JUDGE
UNITED STATES DISTRICT COURT